

REMARKS

In the Office Action mailed January 30, 2007, the Examiner rejected Claims 1-4 and 10-12 under 35 U.S.C. §102(e) as being anticipated by U.S. Patent Application Serial No. 2003/0105416 (hereinafter, "the Hepburn application"), rejected Claims 5-7 under 35 U.S.C. §103 as being obvious in light of the Hepburn application, and indicated that Claims 8 and 9 are allowable if written in independent form. Each objection and rejection is addressed below.

I. Rejection of Claims 1-4 and 10-12 under 35 U.S.C. §102(e)

Claims 1-4 and 10-12 were rejected under 35 U.S.C. §102(e) as being anticipated by the Hepburn application. The Applicant respectfully disagrees. The Hepburn application does not teach, describe, enable and/or motivate, for example, an orthotic forearm device comprising a lower portion configured to attach to a forearm.

So as to overcome the fact that the Hepburn does not teach all of the elements of the claimed invention (e.g., an orthotic device having a lower portion configured to attach to a forearm), the Examiner attempted to demonstrate that an orthotic device configured for *wrist* attachment anticipates *forearm* attachment. In particular, the Examiner stated, "Hepburn et al. disclose a supinator/pronator therapy system that either explicitly or inherently anticipates all features of the claimed invention. More specifically, Hepburn et al. disclose an orthotic forearm device (10) comprising an upper portion (23) configured to attach to an upper arm, a lower portion (constituted by wrist stabilizer 18) configured to attach to a forearm¹..." Footnote 1 provides: "Applicant should note attached Exhibit A, wherein the popular use of the term forearm is defined as the portion of the arm from the shoulder to the hand." Exhibit A, however, reads as follows:

Definition of Forearm

Forearm: The portion of the upper limb from the elbow to the wrist.

In popular usage, the arm extends from the shoulder to the hand. However, in medical terminology, the arm refers to the upper extremity extending from the shoulder

only to the elbow. The arm is thus distinguished in medical usage from the forearm, which extends from the elbow to the wrist.

The forearm has 2 bones: the radius and ulna.

As such, it appears that the Examiner has misinterpreted Exhibit A to describe a *forearm* as extending from the shoulder to the hand. As shown above, this interpretation is incorrect as it is the arm – not the forearm – that is described as extending from the shoulder to the hand. The definition of forearm, as shown in Exhibit A, “the portion of the upper limb from the elbow to the wrist.” Indeed, Exhibit A distinguishes between an arm, a wrist and a forearm (e.g., “The arm is thus distinguished in medical usage from the forearm, which extends from the elbow to the wrist”). As such, the Hepburn description of an orthotic device capable of wrist attachment does not anticipate orthotic devices configured for forearm attached, as required in the claimed invention. As the Hepburn application fails to teach all of the elements of the claimed invention, the Applicant requests these rejections be withdrawn.

II. Rejection of Claims 5-7 under 35 U.S.C. §103(a)

The Examiner rejected dependent Claims 5-7 under 35 U.S.C. §103(a) as being obvious in light of the Hepburn application. Claims 5-7 are dependent upon non-obvious and non-anticipated Claim 1. As discussed in Section I of this Office Action Response, the Hepburn application fails to teach all elements of the claimed invention. As such, a *prima facie* case of obviousness has not been established. The Applicant requests these rejections be withdrawn.

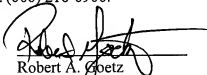
III. Allowable Subject Matter

The Examiner stated, “Claims 8 and 9 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.” The Applicant now submits new Claims 13-19 to recite the allowable subject matter, and cancel Claims 8 and 9.

IV. Conclusion

All grounds of rejection of the Office Action of January 30, 2007 have been addressed and reconsideration of the application is respectfully requested. Should the Examiner believe that a telephone interview would aid in the prosecution of this application Applicant encourages the Examiner to call the undersigned collect at (608) 218-6900.

Dated: 6-29-2007


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